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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,333	03/27/2002	Bernhard Hanke	CM2211MQL	1281

27752 7590 03/02/2004

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EXAMINER

EGAN, BRIAN P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/089,333

Applicant(s)

HANKE ET AL.

Examiner

Brian P. Egan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Specification*

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.
2. The disclosure is objected to because of the following informalities: on page 4 of the specification, line 6 states "and most preferably more than of [mmmm] concentration." What is the most preferable amount of [mmmm] concentration?

Appropriate correction is required.

### *Claim Objections*

3. Claim 1 is objected to because of the following informalities: line 4 of the claim recites "having a an." The Examiner suggests deleting "a" to facilitate grammatical clarity.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as his invention. The scope of the limitation "a second element" is unclear in claim 1. What does the Applicant intend to encompass within the limitation of "a second element"? Proper clarification and/or correction are required.

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6. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, for failing to provide proper antecedent basis for "said linear or branched." The Examiner suggests amending claim 1 to include a "linear or branched polyolefinic homopolymer" or deleting the aforementioned phrase from claim 4. Proper clarification and/or correction are required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1 and 4-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Seth et al. (#5,888,607).

Seth et al. disclose an article and method of making the article wherein the article comprises a first element (Fig. 1, #12) and a second element joined to the first element (Fig. 1, #10), the first element comprising a film web material characterized in that the film web material comprises a polyolefinic homopolymer having an isotacticity of less than 60% of [mmmm] pentad concentration (Col. 3, lines 51-54; Col. 9, lines 22-31; Col. 14, lines 27-32). The polyolefinic homopolymer is a linear or branched isotactic polymer of polypropylene (Col. 8, lines 9-14). The first and second element are mated to form a loop patch for use in hook and loop fastening components (Col. 1, lines 6-9). Seth et al. provide the examples of surgical gowns and disposable absorbent articles as articles to which the loop patch is integrated with (Col. 1, line 12). Disposable absorbent articles are inclusive of hygienic articles and packaging articles.

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Furthermore, the loop patch serves as a wrap material that is a construction element of the article, i.e., a fastening element. Seth et al. further disclose processing the material via extrusion and through orienting the substrate through nip rollers (Col. 5, lines 41-46).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seth et al. ('607) in view of Siedle et al. (#6,265,512).

Seth et al. teach an article as detailed above. Seth et al. further teach the desire to have a soft material in order to avoid discomfort to the wearer as well as provide a conformable form-fitting garment (Col. 1, lines 53-55). "Form-fitting" implicitly comprises materials that are both stretchable and elastically extendable. Therefore, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to have selected a degree of softness in the article of Seth et al. such that it is both stretchable and elastically extendable in order to provide comfort to a wearer. Furthermore, it is notoriously well known in the art that film web materials comprising polypropylene exhibiting isotacticity below 60% of [mmmm] pentad are both stretchable and elastic as evidenced by Siedle et al. (see Abstract; Col. 4, lines 26-52 and 61-63; Col. 10, lines 54-63; Col. 17, lines 50-54; Col. 22, lines 50-61; Col. 38, lines 20-24).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 571-272-1491. The examiner can normally be reached on M-F, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BPE 2/20/04

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

2/20/04